

State of Arizona
Senate
Forty-eighth Legislature
First Regular Session
2007

SENATE BILL 1221

AN ACT

AMENDING TITLE 13, CHAPTER 23, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-2320; RELATING TO FRAUD.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Title 13, chapter 23, Arizona Revised Statutes, is amended
3 by adding section 13-2320, to read:

13-2320. Residential mortgage fraud: classification; definitions

A. A PERSON COMMITS RESIDENTIAL MORTGAGE FRAUD IF, WITH THE INTENT TO DEFRAUD, THE PERSON DOES ANY OF THE FOLLOWING:

1. KNOWINGLY MAKES ANY DELIBERATE MISSTATEMENT, MISREPRESENTATION OR MATERIAL OMISSION DURING THE MORTGAGE LENDING PROCESS THAT IS RELIED ON BY A MORTGAGE LENDER, BORROWER OR OTHER PARTY TO THE MORTGAGE LENDING PROCESS.

2. KNOWINGLY USES OR FACILITATES THE USE OF ANY DELIBERATE MISSTATEMENT, MISREPRESENTATION OR MATERIAL OMISSION DURING THE MORTGAGE LENDING PROCESS THAT IS RELIED ON BY A MORTGAGE LENDER, BORROWER OR OTHER PARTY TO THE MORTGAGE LENDING PROCESS.

3. RECEIVES ANY PROCEEDS OR OTHER MONIES IN CONNECTION WITH A RESIDENTIAL MORTGAGE THAT THE PERSON KNOWS RESULTED FROM A VIOLATION OF PARAGRAPH 1 OR 2 OF THIS SUBSECTION.

4. FILES OR CAUSES TO BE FILED WITH THE OFFICE OF THE COUNTY RECORDER OF ANY COUNTY OF THIS STATE ANY RESIDENTIAL MORTGAGE LOAN DOCUMENT THAT THE PERSON KNOWS TO CONTAIN A DELIBERATE MISSTATEMENT, MISREPRESENTATION OR MATERIAL OMISSION.

B. AN OFFENSE INVOLVING RESIDENTIAL MORTGAGE FRAUD SHALL NOT BE BASED SOLELY ON INFORMATION THAT IS LAWFULLY DISCLOSED UNDER FEDERAL DISCLOSURE LAWS, REGULATIONS AND INTERPRETATIONS RELATED TO THE MORTGAGE LENDING PROCESS.

C. A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A CLASS 4 FELONY, EXCEPT THAT A PERSON WHO ENGAGES OR PARTICIPATES IN A PATTERN OF RESIDENTIAL MORTGAGE FRAUD OR WHO CONSPIRES TO ENGAGE OR PARTICIPATE IN A PATTERN OF RESIDENTIAL MORTGAGE FRAUD IS GUILTY OF A CLASS 2 FELONY.

D. FOR THE PURPOSES OF THIS SECTION:

1. "MORTGAGE LENDING PROCESS" MEANS THE PROCESS THROUGH WHICH A PERSON SEEKS OR OBTAINS A RESIDENTIAL MORTGAGE LOAN INCLUDING SOLICITATION, APPLICATION, ORIGATION, NEGOTIATION OF TERMS, THIRD-PARTY PROVIDER SERVICES, UNDERWRITING, SIGNING, CLOSING AND FUNDING OF THE LOAN.

2. "PATTERN OF RESIDENTIAL MORTGAGE FRAUD" MEANS ONE OR MORE VIOLATIONS OF SUBSECTION A THAT INVOLVE TWO OR MORE RESIDENTIAL PROPERTIES AND THAT HAVE THE SAME OR SIMILAR INTENTS, RESULTS, ACCOMPLICES, VICTIMS OR METHODS OF COMMISSION OR ARE OTHERWISE INTERRELATED BY DISTINGUISHING CHARACTERISTICS.

3. "RESIDENTIAL MORTGAGE LOAN" MEANS A LOAN OR AGREEMENT TO EXTEND CREDIT TO A PERSON THAT IS SECURED BY A DEED TO SECURE DEBT, SECURITY DEED, MORTGAGE, SECURITY INTEREST, DEED OF TRUST OR OTHER DOCUMENT REPRESENTING A SECURITY INTEREST OR LIEN ON ANY INTEREST IN ONE-TO-FOUR FAMILY RESIDENTIAL PROPERTY AND INCLUDES THE RENEWAL OR REFINANCING OF ANY LOAN.